

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAMIAN KARL SCHENEWARK,

Plaintiff,

v.

KILOLO KIJAKAZI,
COMMISSIONER OF SOCIAL
SECURITY,¹

Defendant.

Case No. 1:21-cv-00683-BAK

ORDER GRANTING PARTIES' JOINT
MOTION TO REMAND UNDER SENTENCE
FOUR OF 42 U.S.C. § 405(g), REVERSING
FINAL DECISION AND REMANDING
CASE²

(Doc. No. 18)

ORDER TO TERMINATE ALL PENDING
MOTIONS AND DEADLINES

Pending before the Court is the Parties' Joint Motion to Remand filed March 31, 2022. (Doc. No. 18). Plaintiff Damian Karl Schenewark and the Commissioner of Social Security agree that this case should be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). (*Id.*).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision.

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi is substituted for Andrew M. Saul as the defendant in this suit.

² Both parties have consented to the jurisdiction of a magistrate judge, in accordance with 28 U.S.C. §636(c)(1). (Doc. No. 19).


1 *See Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney’s fees under
2 the Equal Access to Justice Act and calculating deadline using date of final judgment). The
3 *Melkonyan* Court recognized 42 U.S.C. § 405(g) contemplates only two types of remand –
4 sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a
5 judgment affirming, modifying, or reversing the decision of the Secretary, with or without
6 resetting the cause for a rehearing.” *Id.* at 98 (other citations omitted).

7 The Court grants the Parties’ motion to remand under sentence four and reverses the
8 Commissioner’s final decision. As agreed by the Parties, **upon remand, the Administrative**
9 **Law Judge should “re-evaluate the medical opinion evidence of record.”** (Doc, No. 18 at 1).

10 Accordingly, it is **ORDERED**:

- 11 1. Pursuant to sentence four of 42 U.S.C. § 405(g), the Court REVERSES the
12 Commissioner’s decision and REMANDS this case back to the Commissioner of
13 Social Security for further proceedings consistent with this Order.
- 14 2. An application for attorney fees may be filed by separate motion.
- 15 3. The Clerk shall enter judgment in favor of Plaintiff, terminate any pending motions
16 and deadlines, and close this case.

17
18 Dated: April 5, 2022


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE